

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

AGREEMENT FOR SERVICES BETWEEN THE TOWN OF APPLE VALLEY AND THE APPLE VALLEY VILLAGE PROPERTY AND BUSINESS IMPROVEMENT DISTRICT ASSOCIATION

Summary Statement:

The Town Council adopted Resolution 2007-38 on July 10, 2007, establishing the Apple Valley Village Property and Business Improvement District (District) for a five-year period (FY 2007-08 through FY 2011-12), to levy annual assessments against the District assessable parcels to be used only for the purposes set forth in the District adopted Management District Plan (Exhibit A).

In June 2008, the District property owners formed and incorporated the Apple Valley Village Business Improvement District Association (Association), a 501(c)(6) nonprofit corporation. Acting as the District administering body and having selected a Board, it is now appropriate for the Town to proceed with entering into an agreement with the Association in order that it may access assessment proceeds and begin implementing the Management District Plan. On October 29, 2008, the Association approved an Annual Report Workplan and Budget which is attached as Exhibit B to this agreement.

For the FY 2007-08, the assessment district collected approximately \$288,616.89, including interest. Notably, annual assessments are expected at or near this initial total but will vary upon the rate of successful "collection" of these revenues from affected property owners. To date, the Association has received advances in the amount of \$36,996.60 for start-up and administrative costs as well as for work prepared by consultants necessary to form the District, leaving an approximate balance of \$251,620.29 for this year's work program.

The term of the agreement will expire in June 30, 2013, one year after the dissolution of the District. However, the agreement may renew for one additional year, if necessary, in order to complete the expenditure of all District funds.

Pursuant to the agreement, the Town shall remit to the Association the District assessment revenues (collected by the County of San Bernardino and paid to the Town) on an as-needed basis and in accordance with the approved Annual Report. The Annual Report includes an itemized budget and detailed workplan. Components of the Annual Report that are directly administered by the Town will be paid directly by the Town. Components of the Annual Report that are directly administered by the Association will be paid directly by the Association and may be advanced to the Association annually upon Town Council approval of that year's Annual Report. The Association will be held accountable for all funds it directly administers and will submit expense reports and financial statements accordingly.

The proposed agreement is attached for review and approval. Staff recommends adoption of the form motion below.

Recommended Action:

That the Town Council approve the Agreement for Services between the Town of Apple Valley and the Apple Valley Village Property and Businesses Improvement District Association.

Proposed by: Economic and Community Development Department **Item Number:**

Town Manager Approval: _____ **Budgeted Item:** Yes No N/A

TOWN OF APPLE VALLEY (DRAFT)
AGREEMENT FOR SERVICES

This Agreement for Services (“Agreement”) is entered into on December 09, 2008, at Apple Valley, California, between the Town of Apple Valley, a municipal corporation, (“TOWN”) and the Apple Valley Village Property and Business Improvement District Association, a nonprofit mutual benefit corporation, (“ASSOCIATION”), with either party referred to individually as “Party” and collectively as “Parties”.

RECITALS

WHEREAS, pursuant to Resolution No. 2007-38 (the “Resolution”) the Town Council of the TOWN has established a property and business improvement district designated as the Apple Valley Village Property and Business Improvement District (“DISTRICT”), under Section 36600, et Seq. of the California Streets and Highway Code (the “Law”); and

WHEREAS, pursuant to the Resolution and the Law, assessments are levied annually against the assessable parcels in the DISTRICT, commencing with Fiscal Year 2007-2008 and continuing through Fiscal Year 2011-2012; and

WHEREAS, such assessments may be used only for the purposes set forth in the Resolution; and

WHEREAS, TOWN desires to contract for the administration of a program of improvements and activities and the use of the assessments in connection with the DISTRICT for Fiscal Year 2008-2009, through and including Fiscal Year 2012-2013 with ASSOCIATION in accordance with the Law.

WHEREAS, the ASSOCIATION proposes to administer such program of improvements and activities for Fiscal Year 2008-2009 through and including the end of Fiscal Year 2012-2013.

NOW, THEREFORE, and in recognition of good and valuable consideration, TOWN and ASSOCIATION mutually agree as follows:

1. TERM OF AGREEMENT

- 1.1 The term of this Agreement shall be from July 1, 2008 through June 30, 2013; and shall automatically renew for one additional year upon receiving a written request from the ASSOCIATION prior to the expiration of the Agreement.
- 1.2 In the case of a default or breach by ASSOCIATION, TOWN may terminate this Agreement by giving written notice in accordance with the terms of this Agreement.
- 1.3 Upon termination or expiration of this Agreement, all unexpended funds for the DISTRICT and all assets purchased with DISTRICT funds shall be returned to TOWN to be used and/or disbursed in accordance with the Management District Plan, attached

hereto as Exhibit “1” and incorporated herein by this reference, adopted pursuant to the Law.

2. USE OF FUNDS

- 2.1 Funds received by ASSOCIATION pursuant to this Agreement shall only be expended for the purposes stated in the Resolution as authorized by the Law, and shall only be expended in accordance with the Management District Plan, attached hereto as Exhibit “1” and incorporated herein by this reference, and each annual report prepared by the ASSOCIATION pursuant to Section 36650 of the Code, as approved by the Town Council.

3. ASSOCIATION RESPONSIBILITIES

- 3.1 ASSOCIATION shall administer the DISTRICT work program and perform all of the services specified in the Management District Plan and each annual report of ASSOCIATION pursuant to Section 36650 of the Code as approved by the Town Council, and in this regard shall cooperate with the Town Manager of the TOWN or such personnel as the Town Manager may designate.
- 3.2 Throughout the term of this Agreement, ASSOCIATION shall timely submit to the TOWN’s Director of Economic and Community Development the following:
- 3.2.1 Quarterly Expense Reports: By the last business day of the first month of each fiscal quarter, commencing December 31, 2008, a quarterly expense report for the immediately previous fiscal quarter;
- 3.2.2 Annual Report: By July 1, beginning with fiscal year 2009-2010, an annual report detailing a work program and itemized budget for the current fiscal year that conforms to the Management District Plan and Section 36650 of the Code. The Annual Report for July 1, 2008 – June 30, 2009 is submitted and attached as Exhibit “2” of the Agreement;
- 3.2.3 Financial Statements: By October 1, commencing October 1, 2009, a statement of income and expenses of ASSOCIATION in relation to the DISTRICT, reviewed by a Certified Public Accountant covering the previous fiscal year. Notwithstanding the termination date of this Agreement, ASSOCIATION shall submit a statement of income and expenses of ASSOCIATION in relation to the DISTRICT, covering fiscal year 2012-2013 no later than October 1, 2013.
- 3.2.4 Within thirty (30) days of a written request of the TOWN’s Economic and Community Development Director, ASSOCIATION shall provide all other financial information of ASSOCIATION in relation to the DISTRICT as the TOWN’s Economic and Community Development Director may reasonably request from time to time.

- 3.3 ASSOCIATION hereby agrees to comply with all federal, state and TOWN laws, codes, ordinances, and/or regulations as they may relate to the administration of the DISTRICT under this Agreement.
- 3.4 ASSOCIATION reserves the right to request consideration of 50 percent in matching grants and funds in order to maximize the leverage of DISTRICT funds to carry out program, services and improvements outlined in each annual work plan, adopted pursuant to the Management District Plan.

4. TOWN RESPONSIBILITIES

- 4.1 TOWN shall prepare and submit to the County of San Bernardino each year an annual assessment roll for the DISTRICT and prepared by the DISTRICT for fiscal years 2007-2008 through 2011-2012 and shall disburse DISTRICT assessment revenues received by TOWN from the County of San Bernardino to ASSOCIATION in accordance with Section 5.1 of this Agreement. Any costs for preparation of the annual DISTRICT assessment rolls shall be paid from the DISTRICT assessment revenues.
- 4.2 With respect to the assessable parcel(s) of any public agencies for which the County of San Bernardino does not bill the annual DISTRICT assessments, TOWN shall hand bill such agencies for DISTRICT assessments, including the enforcement of the collection of such assessments.
- 4.3 TOWN shall review all reports submitted by ASSOCIATION.
- 4.4 TOWN shall make available to ASSOCIATION such information in its possession, except for information which is determined to be confidential information by the Town Attorney, which is reasonably necessary for implementation of the DISTRICT work program.
- 4.5 TOWN shall report to ASSOCIATION on a regular basis as to the status of DISTRICT assessment revenues thus far collected so that ASSOCIATION can adjust its future budget and work program accordingly.
- 4.6 TOWN shall make available to ASSOCIATION a full accounting of DISTRICT funds encumbered prior to any direct expenditure, including but not limited to estimated service hours, billing rates and other related expenses.

5. DISBURSEMENTS

- 5.1 Commencing with fiscal year 2008-2009 and continuing through fiscal year 2012-2013, TOWN shall remit to ASSOCIATION the DISTRICT assessment revenues collected by the County of San Bernardino and paid to TOWN on an as-needed basis and in accordance with the approved Annual Report, to include an itemized budget and detailed work plan. Components of the Annual Report – work plan that are directly administered by the TOWN will be paid directly by the TOWN. Components of the Annual Report – work plan that are directly administered by ASSOCIATION will be paid directly by

ASSOCIATION. In these cases, assessment revenues paid to the TOWN to cover ASSOCIATION administered components may be advanced to ASSOCIATION annually upon approval of that year's Annual Report.

6. AUDITS, ACCOUNTING AND AUDIT EXCEPTIONS

- 6.1 ASSOCIATION's program, as it relates to the DISTRICT, will be audited in accordance with the TOWN's policy and funding guidelines. TOWN or its authorized representatives shall, with thirty (30) days' prior written notice, have access to any and all of ASSOCIATION's books, documents, papers, records, property, and/or premises, for the purpose of audit and/or inspection.
- 6.2 ASSOCIATION staff will cooperate fully with authorized auditors when they conduct audits and examinations of ASSOCIATION's program as it relates to the DISTRICT. If indications of misappropriation or misapplication of the funds governed by this Agreement cause the TOWN to require a special audit, the cost of the audit shall be paid by ASSOCIATION. Should it be subsequently determined that the special audit was not reasonably warranted, the amount will be restored to ASSOCIATION by TOWN. The right to audit, as provided by this Agreement, shall be for a period of three (3) years from the date of submission of the financial report in question or any indication or notice to the TOWN of a misappropriation or misapplication of funds by ASSOCIATION, whichever is later. This right shall survive the termination of this Agreement, irrespective of how such termination occurred.
- 6.3 ASSOCIATION will establish and maintain on a current basis an adequate accrual accounting system in accordance with generally accepted accounting principles and standards. The system shall detail all costs chargeable to the DISTRICT under this Agreement and shall substantiate all such costs, meeting acceptable standards for public entities in Southern California and complying with any applicable federal standards. The system shall meet the minimum fiscal and internal control requirements as reasonably determined by TOWN.

7. INSURANCE

Without limiting ASSOCIATION's indemnification of TOWN, ASSOCIATION shall provide and maintain at its own expense during the term of this Agreement the program(s) of insurance covering its operation pursuant to the requirements described below. Such insurance shall be provided by insurer(s) satisfactory to TOWN and evidence of such programs satisfactory to TOWN shall be delivered to the Director of Economic and Community Development Department or his/her designee within (10) days of the effective date of this Agreement. TOWN may require complete, certified copies of any or all policies at any time.

- 7.1 General liability insurance with minimum limits of at least one million dollars (\$1,000,000) combined premises/operations and personal injury coverage is required. TOWN, its directors, commissioners, officers, employees, agents and volunteers must be

endorsed on the policy as additional insureds with respect to liability arising out of ASSOCIATION'S performance of this Agreement. If ASSOCIATION employs other contractors as part of its performance under this Agreement, contractor's protective coverage is required. ASSOCIATION may insure all subcontractors and/or independent contractors under its own policy or shall procure and furnish separate insurance for each subcontractor and/or independent contractor in accordance with the requirements set forth in this Section 7.

- 7.2 ASSOCIATION shall, if applicable, provide workers compensation on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than one million dollars (\$1,000,000) per accident for all covered losses.
- 7.3 ASSOCIATION shall procure and maintain at its own expense a policy covering directors & officer Liability with minimal limits of one million dollars (\$1,000,000).
- 7.4 Each insurance policy included in this Section 7 shall be endorsed to state that coverage shall not be canceled except after thirty (30) days prior written notice to TOWN, and that coverage is primary to any other coverage available to TOWN.
- 7.5 Insurers shall be lawfully admitted in the State of California to provide insurance, as regulated by the California Department of Insurance, unless pre-approved in writing by TOWN.
- 7.6 Failure by ASSOCIATION to procure or maintain all insurance required by this Agreement shall constitute a material breach of this Agreement under which TOWN may immediately terminate this Agreement upon written notice. Failure to so terminate shall not constitute a waiver of any rights by TOWN.

8. NOTICES

All notices, plans, or reports permitted or required under this Agreement shall be in writing, and shall be delivered by personal hand delivery, first class mail, postage prepaid, or by overnight courier, with service deemed made the same day if by personal hand delivery, within two days of depositing in the U.S. mail, or the following day after depositing with an overnight courier. All notices must be addressed to the respective Parties at the following address, or at such other address as the respective Parties may provide in writing for this purpose:

TOWN OF APPLE VALLEY
14955 Dale Evans Parkway
Apple Valley, CA 92307
Attn: Director of Economic & Community Development

Apple Valley Village PBID Association
P.O. Box 1044
Apple Valley, CA 92307
Attention: Richard Cambridge, Chairperson

9. CONFLICT OF INTEREST

- 9.1 For the duration of this Agreement, neither ASSOCIATION nor its employees will act as consultants or perform services of any kind for any other person or entity in regard to the DISTRICT without the prior written consent of TOWN. In addition, neither members of the Board of Directors of ASSOCIATION, nor its Chief Executive Officer, may enter into any other contracts regarding the DISTRICT, nor vote on any DISTRICT matter when such contract or matter would be of financial benefit to the member or director over and above the general financial benefit to all members in the DISTRICT.

10. NONDISCRIMINATION

- 10.1. ASSOCIATION represents and agrees that it does not and will not discriminate against any employee or applicant for employment because of political affiliation or opinion, age, ancestry, marital status, physical condition, pregnancy or pregnancy-related condition, race, ethnicity, religion, color, sex, sexual orientation, national origin or medical condition.

11. GENERAL PROVISIONS

- 11.1 Assignment. Neither this Agreement, nor any interest herein, shall be assigned by any Party without the prior written consent of the other Party.
- 11.2 Independent Contractor. It is agreed and understood that ASSOCIATION is a wholly independent contractor. This Agreement is not intended and shall not be construed to create the relationship of agent, employee, servant, partnership, joint venture or association as between TOWN and ASSOCIATION. Neither TOWN nor its agents shall have control over the conduct of ASSOCIATION except as set forth herein. TOWN shall have no liability or responsibility for payment of any wage or benefits to ASSOCIATION's employees, for whom ASSOCIATION shall bear sole responsibility and liability.
- 11.3 Default of Contractor. In the case of default by ASSOCIATION in providing any service, or in performing this Agreement, the TOWN may, in addition to all other remedies it may have, including but not limited to termination of the Agreement and/or filing of a suit at law or equity, obtain such services from other sources and deduct the cost thereof from any costs due or thereafter owing to ASSOCIATION relating to such items or to otherwise claim and collect such costs.
- 11.4 Attorney's Fees. If a legal action or proceeding is sought by any Party because of default or material breach of this Agreement, or to enforce any provision thereof, the prevailing Party therein shall be entitled, in addition to any other relief, to recover reasonable costs, including attorney's fees and court costs, from the other party as determined by the court in which said action or proceeding is pending.

- 11.5 Indemnification. ASSOCIATION agrees to indemnify, defend (upon request by TOWN and with attorneys approved by TOWN in its sole discretion) and save harmless TOWN, its agents, representatives, officers and employees from and against any and all liability, claims, actions, judgments, and expenses, including defense costs and legal fees, and claims for damages of any nature whatsoever, including, but not limited to, bodily injury, death, or property damage arising from or related to ASSOCIATION's operations, or its services hereunder, or arising from or related to any wrongful acts or omissions; and ASSOCIATION's obligations hereunder to defend, indemnify and hold harmless also includes any workers' compensation claims or any other claims, suits, judgments or liability or expense, relating in any manner to services performed by or on behalf of ASSOCIATION or by any person pursuant to this Agreement.

- 11.6 Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the subject matter hereof, and supercedes any and all prior agreements, if any, whether oral, written, or otherwise. This Agreement may only be modified in writing, signed by both Parties.

- 11.7 Governing law. This Agreement shall be governed by the laws of the State of California, with venue being proper in the Superior Court for the State of California, County of San Bernardino.

- 11.8 Time of Essence. Time is of the essence of each and every provision of this Agreement.

- 11.9 Authority. The signatories to this Agreement represent and warrant that they have the necessary authority to bind the Party that they represent to each and all of the terms of this Agreement.

TOWN OF APPLE VALLEY, CALIFORNIA

By: _____
 Frank Robinson, Town Manager

ATTEST:

 La Vonda M. Pearson, Town Clerk

APPROVED AS TO FORM:

 John Brown, Town Attorney
 Best, Best & Krieger LLP

APPLE VALLEY VILLAGE PROPERTY AND

BUSINES IMPROVEMENT DISTRICT

Richard Cambridge, Chairman

Exhibit 1

APPLE VALLEY VILLAGE

PROPERTY & BUSINESS IMPROVEMENT DISTRICT

MANAGEMENT DISTRICT PLAN

Prepared pursuant to the State of California
Property and Business Improvement District Law of 1994
to establish a property and business improvement district in Apple Valley Village

By

Apple Valley Village Property & Business Owners

*With assistance from
Edward Henning & Associates*

JANUARY 2005

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1.0 DISTRICT SUMMARY

The Apple Valley Village PBID is a property-based Business Improvement District being developed by a consortium of progressive business and property owners within the Apple Valley Village business area. The purpose of this district is to provide and manage supplemental services and improvements for this important business center, including a phased streetscape beautification project along Highway 18 and other streets within the PBID, image enhancements such as seasonal banners and theme street furniture, and supplemental public safety services. The PBID is a unique benefit assessment district that will enable the District property owners, working as a unit, to fund needed property related improvement programs and projects above what can be provided by the Town of Apple Valley on a regular basis. The Town has pledged to provide matching grants and funds, where possible, for each dollar generated through the PBID. PBIDs such as the one being proposed have been successfully used in some 2000 business districts throughout the US and Canada. Currently, there are over 150 PBIDs in business districts throughout California.

Location: Highway 18 corridor generally bounded by Navajo Rd. on the west, Central Rd. on the east, Esaws Rd. on the north and Ottawa Rd. on the south. (see map).

Services: Phased streetscape beautification improvements, image enhancements, supplemental public security.

Finance: Benefit assessment of real property (279 parcels)

Budget: Total district budget for Year 1 is approximately \$326,500

Cost: There are two benefit zones: Zone A (Hwy 18, Central and Navajo frontage) and Zone B.

ZONE A (annual rates)

- A. A flat fee of \$230, plus
- B. \$0.0034 per square foot of land, plus
- C. \$0.1934 per square foot of building, plus
- D. \$1.904 per linear foot of street frontage.

ZONE B (annual rates)

- A. A flat fee of \$230, plus
- B. \$0.00136 per square foot of land, plus
- C. \$0.07736 per square foot of building, plus
- D. \$0.7616 per linear foot of street frontage.

Note: Residential uses are exempt from the building area portion of the assessment fee

Formation: District formation requires submission of petitions from property owners representing at least 50% of the total assessment to be levied. In addition, a balloting of property owners who will be assessed is required whereby, returned ballots in support of the PBID must not be “outweighed” by those returned in opposition to the PBID based on the amount of assessment to be levied.

Duration: Per State law, the district will have a maximum life of five (5) years. After five years, the petition and balloting process must be repeated in order to renew the district and levy assessments.

PBID Q & A

1. *What is a PBID?*

A PBID is a unique funding tool which allows business district property owners to pool their financial resources by assessing themselves to pay for certain districtwide activities and improvements. PBID's have existed in California since 1995 and around the country for three decades and are the most effective and fair method to fund business district programs.

2. *What is the primary benefit of a PBID?*

Competition for trade dollars is increasing and improving all the time. Much more can be accomplished by working together as an organized unit than by working alone. There is the advantage of group purchasing power for funding areawide improvements and programs .

3. *Is a PBID just another government program?*

No. The local government agency's role is to initially approve establishment of the PBID and to annually re-approve the PBID budget and facilitate fund collection from the County Tax Collector. The funds may only be used to pay for the programs and activities authorized by the approved PBID Management Plan.

4. *Is a PBID assessment a new tax?*

No. Taxes go into government agency general funds to be used throughout their jurisdictions as needed. PBID assessments, however, can only be levied and used within the PBID boundaries to fund programs and activities authorized by the approved Management Plan. The PBID must be re-approved after the initial five year approval period. The Town Council will contract with a Property Owner's Association to manage PBID matters and make annual specific budget and work plan recommendations.

5. *Which properties are assessed?*

All properties within the boundaries of the PBID will be assessed including government owned properties and facilities. Assessments will vary based on the projected proportionate special benefit to be conferred on each property.

6. *How much is each property charged?*

An equitable formula has been developed whereby assessments are computed based on various property related factors in proportion to the expected level of benefit to be derived from the programs, improvements and activities being funded.

7. *Can the assessment formula or programs be changed in the future?*

The assessment formula and broad programs can only be changed by a process similar to the PBID initial formation involving support petitions, a ballot procedure, notices and a public hearing.

2.0 INTRODUCTION

There is an ever increasing awareness of social issues in business districts such as crime and environmental concerns (littering, natural resource depletion, graffiti), as well as a greater perceived need by the public for supplemental security and maintenance services.

Coupled with this, there is an ever-increasing amount of competition for business districts from malls, off-price centers, big box warehouse retailers and factory outlets as well as a myriad of internet and home shopping networks. There is a much greater need to aggressively market goods and services and create physical environments and services comparable to the competition. Business districts everywhere must work harder and smarter just to capture a portion of their proportionate marketplace share.

In order to survive and coexist in the myriad of competition, business districts cannot rely solely on discretionary government funding or normal tax supported programs and services. There is a need to pool private resources to independently fund, at least in part, vital activities, services and improvements. Business districts throughout California, from Eureka to San Diego, are finding that one of the most viable methods today to accomplish this is through a property and business improvement district (PBID).

This unique assessment mechanism can fund an exciting array of activities ranging from farmer's markets, art festivals and street fairs to beautification projects such as banners, holiday decorations and landscape planters, to more urgently needed services such as supplemental security and maintenance. By pooling property owner dollars, PBIDs are able to collectively pay for activities, programs and improvements which would not be possible on an individual owner basis. In a time of stretched public resources, PBIDs are one of the most valuable and effective business district finance tools available.

2.1 PBID ELIGIBLE USE OF FUNDS

PBID assessments are levied directly on properties within a prescribed area on the basis of relative special benefit from the improvements and activities to be funded and defined in the State law as follows:

• **“Improvement”** means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following:

- (a) Parking facilities
- (b) Benches, booths, kiosks, display cases, pedestrian shelters and signs
- (c) Trash receptacles and public restrooms (d) Lighting and heating facilities
- (e) Decorations (f) Parks (g) Fountains (h) Planting areas
- (i) Closing, opening, widening, or narrowing of existing streets
- (j) Facilities or equipment, or both, to enhance security of persons and property within the area.
- (k) Ramps, sidewalks, plazas, and pedestrian malls.
- (l) Rehabilitation or removal of existing structures

• **“Activities”** means, but is not limited to, all of the following:

- (a) Promotion of public events which benefit businesses or real property in the district.
- (b) Furnishing of music in any public place in the area.
- (c) Promotion of tourism within the district.
- (d) Marketing and economic development, including retail retention and recruitment.
- (e) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.
- (f) Activities which benefit businesses and real property located in the district.

3.0 PBID DETAILS

3.1 PBID BOUNDARY

The Apple Valley Village PBID encompasses all properties along the Highway 18 corridor roughly bounded by Navajo Rd. on the west, Central Rd. on the east, Esaws Rd. on the north and Ottawa Rd. on the south. Based on information provided by the San Bernardino County Assessor’s Office and field reviews, there are 279 parcels within the proposed PBID. All properties within this PBID will receive varying degrees of primary direct benefit from district programs and improvements within a two benefit zones: Zone A includes all properties fronting on Highway 18, Navajo Road and Central Road and Zone B includes all other properties within the District. A map showing the PBID boundaries is shown on Appendix A attached hereto.

3.2 PBID ACTIVITIES/PROGRAMS/COSTS/BUDGET

Streetscape Beautification may include:

- west end entry sign design/construction
- decorative streetlight design/installation
- landscape and hardscape design/construction/installation
- Village entryway treatment design/construction/installation
- theme signage/street furniture design/construction/installation

Image enhancement may include:

- theme banner design/purchase/installation/maintenance
- holiday banners purchase/installation/maintenance
- holiday decoration purchase/installation/maintenance

Supplemental Public Security services may include:

- additional sheriff patrolling
- security seminars for property/business owners

PROPOSED PBID BUDGET SUMMARY

PBID Program Costs and Budget

In order to carry out the PBID programs outlined in the previous section, a first year budget of \$326,500 is estimated. Since the PBID is planned for a five year term, tentative projected program costs for future years (Years 2-5) are set at the inception of the PBID. These figures are shown in the table below. Carryovers, if any, could be reapportioned the following year for related programs, services and improvements. Budget allocations may be shifted by the Board from one year to the next between major work plan categories based on actual program costs, priorities, public input, design costs, contract prices, availability of matching funds and implementation schedules. Detailed annual budgets will be prepared by the Property Owner’s Association Board for the Town’s review and approval.

Projected Five Year Program Costs

DESCRIPTION	Year 1	Year 2	Year 3	Year 4	Year 5	Total
1. Security (dedicated sheriff)	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$600,000
2. Replace West End Entry Sign	\$25,000	\$0	\$0	\$0	\$0	\$25,000
3. Decorative Streetlights	\$40,000	\$40,000	\$40,000	\$20,000	\$0	\$140,000
4. Hwy 18 Median Landscaping	\$71,500	\$75,000	\$75,000	\$95,000	\$95,000	\$411,500
5. Entry Treatments (windmills etc)	\$60,000	\$70,000	\$0	\$0	\$0	\$130,000
6. Landscaping/Image Enhancement	\$10,000	\$21,500	\$31,500	\$31,500	\$41,500	\$136,000
7. Village Theme Signage	\$0	\$0	\$30,000	\$30,000	\$30,000	\$90,000
8. Village Theme Furniture	\$0	\$0	\$30,000	\$30,000	\$40,000	\$100,000
Total	\$326,500	\$326,500	\$326,500	\$326,500	\$326,500	\$1,632,500

HOW VILLAGE STAKEHOLDERS BENEFIT

All property owners:

- Real and perceived public safety services
- Higher property resale values
- Enhanced rental incomes from vacant and underutilized space
- Greater pedestrian activity
- Improved business climate and mix of desired and needed uses
- New businesses and investors
- Stronger and united voice in Village business district matters

Retail, restaurant, entertainment, and service businesses:

- Improved image to attract and keep customers

Professional, medical and financial businesses:

- Enhanced image & public safety programs for welfare of customers and employees

General office uses:

- Enhanced climate and opportunities for entertaining clients and guests

Churches, fraternal groups, government facilities and non-profits:

- Enhanced overall environment for members, visitors and contributors

Residents

- Enhanced image and safe living

3.3 PBID ASSESSMENTS

Analysis of Basis and Method of Levying Assessments

The Apple Valley Village PBID is a benefit assessment type district whereby district program costs are to be apportioned amongst benefiting properties based on the special benefit each property is expected to derive from the PBID programs. The method and basis of spreading program costs varies from one PBID to another based on local geographic conditions, types of programs and activities proposed, and size and development complexity of the PBID. Some large PBIDs require secondary benefit zones to be identified to allow for a tiered assessment formula for variable benefits derived. Also, as required by Proposition 218, general benefits may not be incorporated into the assessment formula and levied on the PBID properties; only special benefits and costs may be considered. Furthermore, Proposition 218 no longer automatically exempts government owned property from paying benefit assessments unless it is demonstrated by clear and convincing evidence that the property in fact receives no special benefit. Thus, properties owned by the Town of Apple Valley, the Fire District, the Mojave Water Agency, the County School Board etc. will be assessed along with all of the privately owned parcels within the PBID.

Based on the linear/cross shape of the proposed PBID, as well as the nature of the proposed PBID program elements, it is determined that two benefit zones exists in which all properties will gain special, albeit, proportional degrees of benefit. Zone A includes all properties fronting on Highway 18, Navajo Road and Central Road and Zone B includes all other properties within the District.

PBID assessment formulas typically relate to either property street frontage or parcel and building size and location which affect the amount of assessment to be paid. The formula may base assessments on a single factor or a combination of factors. Based on the program activities to be funded, which relate directly to the amount of street frontage, parcel size and current building improvements, it is determined that the assessments be based in part on three property related elements plus a flat fee per parcel; the amount of adjacent street/sidewalk frontage, the parcel size and the building area. Within the PBID there are 279 parcels, 65,720 linear feet of property street frontage, 8,770,926 square feet of land and 1,269,365 square feet of building area. A list of all parcels in the PBID is shown on Appendix B attached hereto. Using the cumulative property related data totals from above, the base Year 1-5 assessment rates for Zone A and Zone B are shown on the charts on the next page.

Due to recognized diminished benefits, residential uses shall be exempt from the building area portion of the assessment fee.

It is noted that properties zoned solely for residential use, by State law, may not be assessed; however, residential uses on non-residential zones may be assessed. No parcels within the PBID are zoned solely for residential use.

**PROPOSED APPLE VALLEY VILLAGE PBID
YEAR 1-5 ASSESSMENT FORMULA**

[Assessment = Flat Fee + Street Frontage Fee + Land Area Fee + Building Area Fee]

- Flat Parcel Fee = (from chart below)
- Street Frontage Fee = parcel street frontage x street frontage rate (from chart below)
- Land Area Fee = land area x land area rate (from chart below)
- Building Area Fee = building area x building area rate (from chart below)

ZONE A ASSESSMENT RATE CHART

<u>FLAT FEE</u>	<u>STREET FRONTAGE RATE</u>	<u>LAND AREA RATE</u>	<u>BUILDING AREA RATE</u>
\$230	\$1.904 Per Linear Foot	0.34 Cents Per Square Foot	19.34 Cents Per Square Foot

ZONE B ASSESSMENT RATE CHART

<u>FLAT FEE</u>	<u>STREET FRONTAGE RATE</u>	<u>LAND AREA RATE</u>	<u>BUILDING AREA RATE</u>
\$230	76.4 Cents Per Linear Foot	0.124 Cents Per Square Foot	7.724 Cents Per Square Foot

SAMPLE CALCULATION:

20,000 sq ft parcel with 10,000 sq ft building with 100 feet of street frontage in Zone A
 Fee = \$230 + (0.0034 x 20,000) + (0.1934 x 10,000) + (1.904 x 100) = \$2,422 per year
 = \$ 6.72 per day or \$ 201 per month or \$ 1,211 per semi-annual property tax payment
 = about 2 ¢ per month per sq ft of building space

3.4 SPECIFIC ANNUAL ADJUSTMENTS

During the term of the PBID, the annual budget may increase based on new developments and additional building stock added to the building inventory within the District. No other assessment rate increases are proposed within the 5 year term of the PBID. In addition, any annual budget surplus or deficit will be incorporated into the subsequent year's PBID budget.

3.5 DISTRICT GOVERNANCE

The Apple Valley Village Property Owners Association (“Association”), not yet formed, would be the agency responsible for the ongoing day-to-day management and administration of the Apple Valley Village PBID. The Association would be a non-profit corporation formed by property owners located in the Apple Valley Village PBID. The Association may choose to contract with a third party entity such as the Town of Apple Valley to carry out some or all of the District improvements and services. The Association may also contract with consultants for needed professional services in conjunction with the planning and implementation of PBID programs and services.

The annual programs, budgets and assessments for the Apple Valley Village PBID shall be determined by the Association, who shall also serve as the PBID “property owners association” described in State PBID Law. This Board shall be responsible for the general oversight of the District including approval of the annual work programs and budgets, monitoring performance, and ensuring compliance with appropriate rules and regulations, including, if applicable, a PBID management agreement with the Town of Apple Valley. This Board shall generally meet on a monthly basis. When related to PBID matters, such meetings shall be subject to the State of California “Brown Act” open meeting requirements. Records of this Association pertaining to PBID related matters shall be available for public review as stipulated by State Law. Pursuant to State law, the Association Board shall file, for approval by the Town Council, an annual report for the upcoming year for which assessments shall be levied. Upon PBID adoption, the Town Council and the Association may execute a contract, as applicable, for the performance and delivery of the stipulated program services over the life of the PBID.

3.6 PBID SPECIAL RULES AND REGULATIONS

The Association may, upon formation of the Apple Valley Village PBID, develop a policy of competitive bidding for outside service and improvement contracts. The policy would aim to maximize service quality, efficiency and cost effectiveness of procured products and services. Other special rules and regulations may be adopted by the Association from time to time, as deemed appropriate and necessary.

4.0 TIME AND MANNER FOR COLLECTING ASSESSMENTS

As provided by statute, the Apple Valley Village PBID assessments will be collected by the County of San Bernardino in the same manner as annual property taxes are collected and will appear as a separate line item on the property tax statement prepared by and issued by the County. It is intended that the Town of Apple Valley and the Apple Valley Village Property Owners Association will enter into an agreement under which the Town will remit, where applicable, the assessment revenues to the Association for implementation of the Management Plan. Existing laws and policies addressing enforcement and/or appeal of property taxes shall also apply to PBID assessments.

5.0 PBID DURATION

Pursuant to State PBID law, the Apple Valley Village PBID will have a five year operating duration extending from January 2008 through the end of December 2012. Any continuation of the PBID after the initial five year period will require compliance with all regulations and statutes in place at the time relative to establishment of a property and business improvement district. At present, this would require preparation of a new management plan for up to 10 years, circulation of a new majority support petition, a Prop 218 balloting and a public hearing and noticing process.

6.0 PBID IMPLEMENTATION TIMELINE

The Apple Valley Village PBID is expected to be operational by January 2008. In order to meet this goal, the following procedural timeline is proposed:

<u>Date</u>	<u>Action/Task</u>
Sep '04 - Jan '05	• Develop a PBID Management Plan
Jan '05 - Feb '05	• Strategize support campaign/meetings etc.
Jan '05 – Apr '07	• Conduct PBID outreach/education campaign
January '05	• Initiate petition drive
Jan '05 - Apr '07	• Collect petitions signed by property owners
Apr '07	• Submit majority support petitions to Town along with final Management Plan and PBID proposal
May 8 th	• Town Council adopts resolution of intention to form the PBID
By May 25th	• Town sends notice of PBID public hearing, copy of resolution of intention and a ballot to each property owner within PBID
July 10 th	• Town conducts public hearing (ballots due by this date)
July 10 th	• Providing no majority protest either by ballot or otherwise in writing at the hearing, Council approves resolution establishing PBID
By Aug 1	• Assessment roll submitted to Assessor/Record Map and Notice
Aug-Dec '07	• Association plans PBID start up
Dec 10, Apr 10 (due)	• Assessments collected by County
1st Qtr '08	• Revenues remitted to Association per contract
2008-2013 (5 yrs)	• Association carries out PBID programs and services

APPENDIX A

BOUNDARY MAP

APPENDIX B

ASSESSMENT ROLL

APN	ASSMNT	APN	ASSMNT	APN	ASSMNT
308739118	\$771.97	308734122	\$1,102.24	311273124	\$1,939.30
308739119	\$771.97	308734123	\$459.32	308734132	\$1,055.66
308739120	\$984.55	308734124	\$558.83	308739225	\$358.92
308734232	\$637.39	308735131	\$1,350.00	311256317	\$838.80
308734233	\$940.52	308735132	\$347.20	308738220	\$343.55
308734241	\$542.63	308735133	\$1,120.80	308734112	\$971.09
308734203	\$988.67	308735136	\$358.92	308734113	\$685.02
311265304	\$744.03	308739115	\$347.20	308734116	\$232.99
308739113	\$741.74	308739116	\$1,120.80	308735140	\$357.42
311273121	\$1,573.61	308739117	\$576.40	311256318	\$452.00
311272101	\$1,675.15	308739215	\$358.92	308734138	\$492.21
308738201	\$1,905.04	308739220	\$400.58	311272107	\$1,349.18
308734211	\$5,139.17	308739221	\$400.58	311272108	\$1,507.60
308739224	\$358.92	308739222	\$612.21	311272111	\$347.20
308739103	\$1,256.46	308735143	\$1,285.74	308734102	\$786.60
308734225	\$1,914.05	308734221	\$1,213.80	311256312	\$452.00
308738229	\$576.13	308734222	\$874.29	311256313	\$452.00
308738230	\$343.68	308734223	\$235.17	308734230	\$728.96
308738231	\$1,107.23	308734224	\$908.07	308734208	\$1,933.51
308738232	\$1,107.23	308734227	\$1,317.25	308734228	\$918.52
308738202	\$2,440.45	308735144	\$1,285.74	308734231	\$529.92
308738110	\$494.91	308739210	\$2,332.76	311256113	\$1,470.41
308738115	\$1,076.48	308739219	\$637.42	308738111	\$707.00
308734131	\$2,391.19	308739227	\$1,132.52	308739212	\$729.81
308738237	\$440.38	308739228	\$1,555.12	308739213	\$2,452.18
308738117	\$693.75	308739236	\$545.72	308739214	\$518.18
311265123	\$5,016.68	308739237	\$545.72	311273108	\$1,474.31
308735116	\$421.23	308735137	\$390.32	308734110	\$1,633.10
308734242	\$1,713.03	308738204	\$1,296.80	311256323	\$1,128.90
308739104	\$1,869.04	311265307	\$1,032.20	311256324	\$600.02
308734101	\$849.50	311265309	\$1,283.23	308730141	\$1,050.91
308739107	\$616.60	311265310	\$1,128.90	308730142	\$271.55
308739108	\$3,986.48	311265311	452.00	308730143	\$590.76
308734121	\$1,054.45	311273107	998.44	308730144	\$719.16

308730145	\$16,867.75	311272109	\$347.20	308734229	\$1,285.95
308734114	\$878.63	308738223	\$343.55	311273122	\$1,289.44
311256319	\$993.52	308738224	\$343.55	308734219	\$294.90
311265127	\$472.40	308738120	\$266.71	308734220	\$340.22
308734226	\$751.10	308734240	\$1,683.99	308734207	\$1,627.28
308735145	\$1,368.36	308735130	\$777.98	308734212	\$417.89
308735146	\$1,115.57	308735141	\$357.42	308734213	\$238.16
308739109	\$769.16	308738105	\$842.84	308734201	\$669.80
308734206	\$1,231.81	308739101	\$761.15	308734236	\$605.59
311272103	\$347.20	308739102	\$274.88	308738102	\$1,064.15
311272104	\$347.20	308738221	\$343.55	308734103	\$2,403.41
308735115	\$421.23	308739114	\$347.20	308734109	\$421.07
308738233	\$869.73	311273102	\$358.77	311273104	\$1,120.80
308738234	\$343.68	311273103	\$358.77	311273105	\$1,120.80
308738235	\$343.68	308735139	\$347.20	311273106	\$382.36
308738236	\$343.68	308735114	\$779.75	308739205	\$347.20
308739230	\$358.92	311272102	\$612.73	308739208	\$576.40
308739206	\$1,737.00	308735113	\$377.51	311272113	\$1,349.18
308738118	\$706.81	308735134	\$1,132.52	311265126	\$779.37
311265301	\$1,059.78	311256314	\$1,095.25	308739105	\$1,766.77
311265302	\$974.18	311256315	\$1,070.88	308739106	\$545.40
311265303	\$1,302.96	311265305	\$915.39	308734115	\$612.80
308738114	\$531.92	311265306	\$831.45	308738113	\$1,182.66
308738210	\$1,361.51	308738205	\$1,764.38	308734117	\$232.72
308738211	\$391.81	308734235	\$632.67	308738212	\$1,296.56
308739217	\$1,906.12	311273126	\$243.60	308738103	\$698.51
308739218	\$358.92	308738222	\$343.55	308738206	\$634.18
308739235	\$819.23	308734239	\$1,278.92	308739123	\$358.77
308738208	\$9,731.84	311265308	\$838.80	308739124	\$358.92
308735138	\$347.20	308738207	\$634.18	308739125	\$358.92
308739231	\$358.92	311273115	\$678.56	308739126	\$358.92
308739232	\$358.92	308739112	\$576.40	308739127	\$358.92
311256311	\$4,774.68	311256322	\$1,477.02	311272112	\$347.20
308739226	\$358.92	30873811	\$464.10	311273116	\$368.81
308734215	\$249.72	31126512	\$829.87	311273125	\$1,195.59
308734216	\$309.12			311273123	\$6,115.68

308734244	\$991.10	308739234	\$358.92	308738213	\$426.50
308738104	\$2,811.78	308738215	\$2,185.65	308738214	\$918.25
308738122	\$559.23	308738216	\$423.95	308738238	\$347.20
308735147	\$671.36	308738217	\$426.50	308734234	\$15,653.79
308738108	\$325.58	308738219	\$912.97		
308738109	\$325.58	308735101	\$636.74		
308738209	\$1,622.35	308735102	\$353.22		
308738225	\$343.55	308735103	\$495.28		
308738226	\$343.55	308735104	\$495.28		
308738227	\$343.55	308735105	\$765.29		
308738228	\$1,579.25	308735111	\$759.96		
043902266	\$15,469.76	308738106	\$946.33		
311272105	\$733.86	308738107	\$396.90		
311272106	\$347.20	308738101	\$0.00		
308738121	\$990.33	308734238	\$6,581.13		
308735135	\$358.92	308735107	\$761.15		
308734205	\$1,043.82	308734245	\$990.15		
311256320	\$452.00	308738119	\$1,077.55		
311256321	\$1,527.69	308734243	\$2,851.19		
308734204	\$376.98	308735142	\$357.42		
311265125	\$663.07	308734209	\$1,378.31		
308734137	\$852.38	308734210	\$582.87		
308739128	\$358.92	311273117	\$416.42		
308739229	\$1,137.66	311272110	\$865.86		
311265124	\$6,091.11	308734237	\$1,572.56		
308734125	\$1,634.93	308738112	\$950.58		
308739209	\$347.20	308739121	\$1,370.86		
308739110	\$1,430.24	308739122	\$1,630.81		
308739111	\$1,430.24	311265312	\$3,189.19		
308734202	\$1,008.66	308739216	\$358.92		
311256316	\$1,170.06	308739223	\$358.92		
308739207	\$358.92	311273101	\$1,132.37		
311273112	\$679.13	308734214	\$427.68		
311273113	\$601.71	308734217	\$427.68		
308738218	\$423.69	308734218	\$292.17		
308739233	\$358.92	308738203	\$1,006.70		

Exhibit 2

AVVPBID Budget - Fiscal 7-1-2008 thru 6-31-2009 (draft)		
	Year One Budget	
Descriptions - G&A Expenses		
Outside Secretarial	12,000.00	
Phone	1,200.00	
Consulting Services	12,000.00	
Insurance	2,000.00	
Postage	1,200.00	
Website - PBID Communications	4,200.00	
Legal and Accounting	8,000.00	
Board Training (conferences)	2,000.00	
Office Expense	1,000.00	
Business Meals	1,200.00	
Office Equipment	600.00	
General and Administrative Sub-total =		45,400.00
	15.73%	
Descriptions - Improvement Expenses		
Security - Police, Soft Sec. or Private (funds to remain with Town)	30,000.00	
Circulation, Drainage, Aesthetic (Funds to remain with Town)	161,220.29	
Marketing-Directory, Mailers, General Advertising (release funds)	15,000.00	
Previous Expenditures (repayment to Town)	36,996.60	
Cost of Goods for Improvements Sub-total =		243,216.89
Total Expenditures =		288,616.89
Revenues to Date 6-30-2008	282,886.02	
Interest earnings 07/01/08 to 09/30/08	4,604.22	
Interest earnings to be received	1,126.65	
Total Revenues to Date =		288,616.89
Summary of Budget		
Funds to be transferred into AVVPBID account (per budget)	60,400.00	
Funds budgeted for current fiscal year payments by Town	191,220.29	
Funds to be paid to Town for previous 50/50 expenditures	36,996.60	
		288,616.89